

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.3502 of 2015

Date of Decision.21.05.2015

Vikram

.....Petitioner

Versus

Rajesh and others

.....Respondents

Present: Mr. Amit Jain, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J. (ORAL)

1. The petitioner is before this Court complaining that at the time when the case was posted for arguments, he had moved the application for examination of a witness to power of attorney and the Court had not granted such a facility. According to him, the additional evidence must have been permitted to be given by a party if the evidence is so filed and order of closure of evidence could not be put out against a party from giving such additional evidence. The counsel would refer to a decision rendered by this Court in Surinder Kapoor Vs. Gurdev Singh 2009(3) RCR (Civil) 595 that after the evidence of the defendant had been closed by order when there was a material witness to be still examined, the Court should offer all opportunities to bring the best evidence possible in the perception of the respective parties. I had in that case allowed for reopening of the case for bringing additional evidence by imposing costs. In yet another judgment in Dr.

Birg. (Retd.) Manmohan Singh Vs. Mrs. Manjit Manmohan Singh 2014

(7) RCR (Civil) 118 was the case of the plaintiff closing his evidence without reserving his right of rebuttal and the Court found that the plaintiff cannot be allowed to lead rebuttal evidence. This Court had observed that the Court had an inherent power to allow party to give evidence even if rebuttal evidence not given.

2. These two decisions would not govern this case. In this case, the plaintiff was trying to bring a witness to power of attorney as an additional witness after the plaintiff's side was closed and the defendant's side was also closed and the matter was posted for arguments. It appears that the plaintiff had already attempted to summon one of the witnesses to power of attorney and the said witness had also been served. After that he did not pursue the summon to ensure that the witness was in Court and his evidence was given. He had closed his evidence without any effort on his part to get the witness to whom summon was served to speak in Court. Later when the defendant's side was examined and posted for arguments, the application has been filed to state that the witness who had been summoned had subsequently died and he noticed that that yet another witness who is still available could be examined. Here is a case where there has been utter laches on the part of the plaintiff and if he had taken steps to summon a witness that was also served and the plaintiff chooses to close his evidence then it must be understood that he was not interested in following it up and secure the presence of the witness to whom summon was issued. It is difficult to believe that the absence of witness who is summoned could go unnoticed by a counsel when he

closed his evidence. The plaintiff can not bring an application to take steps to summon yet another witness when the case had been posted for arguments. I would find that it will be appropriate for the trial Court to exercise its own discretion either allow or decline such course. The discretion which has been exercised by the Court under the circumstances to deny the opportunity to the plaintiff to bring additional evidence is well reasoned and I would find no justification for intervention.

3. The order is maintained and the civil revision is dismissed.

(K. KANNAN)
JUDGE

May 21, 2015
Pankaj*